

Form 8401 (March 2010)	Department of the Treasury – Internal Revenue Service Employee Plan Deficiency Checksheet Attachment #2A (Cycle E) Minimum Vesting Standards for Defined Benefit Plans	Date
<i>For IRS Use</i>	Please furnish the amendment(s) requested in the section(s) checked below.	
2002 I.a.	Section _____ of the plan should be amended to specify the 12-consecutive month period used to determine whether an employee has completed a year of service for vesting purposes. DOL Regs. Section 2530.200b-1(a).	
2003 I.b.	Section _____ of the plan should be amended to specify the completion of no more than 1000 (870 or 750) hours of service in a vesting computation period to entitle an employee to credit for a year of service. IRC section 411 (a)(5)(A) and DOL Regs. sections 2530.200b-1 (a), 2530.200b-3(e), 2530.200b-3(d)(1), 2530.200b-3(f)(1), 2530.200b-3(d)(2), and 2530.200b-3(f)(2).	
2004 I.c.	Section _____ of the plan should be amended to credit hours of service in accordance with the applicable DOL regulations. DOL Regs. sections 2530.200b-2(a), 2530.200b-3(e), 2530.200b-3(d)(1), 2530.200b-3(d)(3)(ii), 2530.200b-3(f)(1)(i) and 2530.200b-3(f)(2).	
2005 I.d.	Section _____ of the plan should be amended to provide, either in its own words or by reference to appropriate DOL regulations, the method of determining the number of hours of service to be credited and to which computation period hours will be credited for periods during which no duties are performed. DOL Regs. sections 2530.200b-2(b), (c) and (f).	
2006 I.e.	For purposes of vesting, section of the plan should be amended to define a break in service as a vesting computation period during which the employee does not complete more than 500 (435 or 375) hours of service. DOL Regs. sections 2530.200b-3 and 4.	
2007 I.f.	Section _____ of the plan should be amended to provide that certain hours of service shall be credited to appropriate computation periods in order to avoid a break in service for employees on maternity or paternity leave. IRC section 411(a)(6)(E).	
2008 I.g.	Section _____ of the plan should be amended to credit an employee with a period of service, commencing no later than the employee's employment commencement date and ending no earlier than the severance from service date. Regs. sections 1.410(a)-7(b), 1.410(a)-7(d) and 1.411(a)-5.	
2009 I.h.	Section _____ of the plan should be amended to provide that an employee's total period of service shall be determined by aggregating all individual periods of service, unless such service may be disregarded under the rule of parity. Regs. sections 1.410(a)-7(b)(6)(ii), 1.410(a)-7(d) and 1.411(a)-5.	
2010 I.i.	Section _____ of the plan should be amended to provide that in determining an employee's period of service, the service spanning rules should be taken into account. Regs. section 1.410(a)-7(c)(2)(iii).	
2011 I.j.	Section _____ of the plan should be amended to define a one year period of severance as a 12-consecutive month period, beginning on the severance from service date during which the employee does not perform an hour of service for the employer. Regs. section 1.410(a)-7(d)(4).	
2012 I.k.	Section _____ of the plan should be amended to provide that the first period of severance shall be ignored to the extent that such period of severance is attributable to maternity or paternity leave. IRC section 411 (a)(6)(E)(iii)	

2013	For purposes of vesting, section _____ of the plan should be amended to exclude only service with the employer which is permitted to be excluded by IRC section 411 (a)(4) and Regs. sections 1.411 (a)-5(a) and (b).
I.l.	
2014	Section _____ of the plan should be amended to provide that years of service with the employer before a participant entered the plan, including years of service in noncovered employment, will be counted for vesting purposes, unless one of the exceptions noted in IRC section 411 (a)(4) applies. IRC section 411 (a)(4), Regs. section 1.411 (a)-5.
I.m.	
2015	For vesting purposes, service with an employer must include service for certain related employers for the period in which the employers are related. These related employers include members of a controlled group of corporations (within the meaning of section 1563(a), determined without regard to subsections (a)(4) and (e)(3)(c) thereof) and trades or businesses (whether or not incorporated) which are under common control. Service must also be counted for organizations that are part of an affiliated service group under section 414(m). Section _____ of the plan should be amended accordingly. IRC section 414(b), (c) and (m), and Regs. section 1.411(a)- 5(b)(3)(iv)(B).
I.n.	
2016	Section _____ of the plan should be amended to give credit for service with the predecessor employer. IRC section 414(a)(1) and Regs. section 1.411(a)-5.
I.o.	
2017	Service of any employee who is a leased employee to any employer aggregated under section 414(b), (c), or (m) must be credited for vesting purposes whether or not such individual is eligible to participate in the plan. Section _____ of the plan should be amended accordingly. IRC section 414(m), Regs. Section 1.411(a)-5(b)(3)(iv) and Rev. Rul. 81-105, 1981-2 C.B. 256.
I.p.	
2019	Section _____ of the plan should be amended to provide that an employee who separates from service and is reemployed prior to incurring a break-in-service will continue to vest, starting at the point in the vesting schedule where he or she left employment, in both his or her pre-separation and post-separation accruals. Regs. section 1.411(a)-6.
II.a.	
2022	Section _____ of the plan should be amended to provide that if a participant separates from service with a nonforfeitable interest, upon re-employment, the pre-break service will be considered for purposes of determining vested interest in benefit accruals resulting from employer contributions after a year of service is completed. IRC sections 411 (a)(6)(B) and (C) and Regs. section 1.411 (a)-6(c)(1).
III.a.	
2023	Section _____ of the plan should be amended to provide that if an employee who has no vested interest separates from service and is reemployed before the number of consecutive one-year breaks in service equals or is more than the greater of 5 or the number of years of service, whether or not consecutive ("Rule of Parity") upon reemployment the pre-break service will be considered for purposes of determining the vested interest in benefit accruals that resulted from employer contributions after a year of service is completed. IRC section 411 (a)(6)(D) and Regs. sections 1.411 (a)-6(c)(1)(iii) and 1.411 (a)-7(d)(7).
III.b.	
2027	Section _____ of the plan should be amended to preclude forfeitures on account of withdrawal of employee contributions when the employee is 50% or more vested in the accrued benefits that resulted from employer contributions. IRC section 401(a)(19) and Regs. section 1.401(a)-19.
IV.a.	

2028	Section _____ of the plan should be amended to provide for the restoration of amounts forfeited on account of withdrawal of mandatory employee contributions if the participant is less than 50 percent vested in accrued benefits that resulted from employer contributions, and he or she repays the mandatory employee contributions withdrawn. IRC section 411 (a)(4)(B) and Regs. section 1.411 (a)-7(d)(2).
IV.b.	
2033	An involuntary cash-out may not be an amount less than the present value of an employee's entire nonforfeitable benefit that resulted from employer contributions, at the time of the distribution. Section _____ of the plan should be amended accordingly. IRC section 411 (a)(7)(B)(i) and Regs. section 1.411(a)-7(d)(4)(i).
V.b.	
2034	All cash-outs (voluntary or involuntary) must be made due to an employee's termination of participation in the plan. Section _____ of the plan should be amended accordingly. IRC sections 411(a)(7)(B) and 417(e) and Regs. sections 1.411 (a)-7(d)(4)(i) and (ii).
V.c.	
2035	A plan that provides for voluntary or involuntary cash-outs must contain a repayment provision if the employee may receive a distribution that is less than the present value of the employee's accrued benefit, and the employee resumes employment. When the employee repays the full amount of the distribution as provided by regulations, the value of the employee's accrued benefit should be restored. Section _____ of the plan should be amended accordingly. IRC section 411 (a)(7)(C) and Regs. section 1.411 (a)-7(d)(4)(iv).
V.d.	
2036	Years of service may be disregarded only for purposes of benefit accruals, and only to the extent a participant has received a distribution of his or her entire nonforfeitable interest in the plan. Section _____ of the plan should be amended accordingly. IRC section 411 (a)(7)(B) and Regs. section 1.411 (a)-7(d)(4)(iii).
V.e.	
2043, 2044	The plan must specify the applicable interest rate and applicable mortality table to be used in determining the present value of accrued benefits and the amount of any distribution, including lump sum distributions that cash-out the participant's benefit. PPA '06 section 302, as modified by WREERA, amended section 417(e)(3) of the Code to redefine "applicable interest rate" and "applicable mortality table" for plan years beginning on or after January 1, 2008.
V.f., g.	
2045	Section _____ of the plan should be amended to indicate the date on which the interest rate limitations under sections 411 (a)(11), and 417(e)(3) of the Code will be determined. The plan must specify the stability period and lookback month. IRC sections 411 (a)(11) and 417(e)(3), Regs. section 1.417(e)-1 and Rev. Rul. 2007-67.
V.h.	
2046	Section _____ of the plan should be amended to provide that where the plan uses an interest rate or mortality table in addition to the section 417 "applicable interest rate" and "applicable mortality table" for valuing benefits and determining amounts of distributions, it will use the rate which produces the greater benefit, subject to the limitations of section 415 of the Code. Regs. Section 1.417(e)-1 (d)(5).
V.i.	
2047	Section _____ of the plan should be amended to preclude the immediate distribution of any benefit where the present value of the nonforfeitable accrued benefit (taking into account benefits derived from both employer and employee contributions) is in excess of \$5,000, without the consent of the participant and, when applicable, the participant's spouse (the \$5,000 threshold is determined without regard to any employee rollover that the employee contributed to the employer's plan). An immediate distribution means the distribution of any part of the benefit prior to the later of age 62 or normal retirement age. IRC sections 411 (a)(1) and 417(e), and Regs. Sections 1.411 (a)(1) and 1.417(e)-1.
V.j.	
V.k.	
	Please submit a demonstration to show that the plan's definition of normal retirement age satisfies Reg. Section 1.401(a)-1(b)(2), or amend section _____ of the plan to provide a definition of normal retirement age that satisfies the regulation.

V.I.	"In-service" distributions permitted to be made by a pension plan are limited to participants who have attained age 62. Section of the plan should be amended accordingly. IRC section 401(a)(36).
2048	
2042	The vesting schedule should be amended to satisfy the requirements, at every point in time, of a particular one of the minimum vesting schedules described by IRC sections 411(a)(2)(A) for all employees' years of service. Regs. section 1.411(a)-3T.
VI.a., b.	
2049	Section of the plan should be amended to provide that benefits may not be decreased due to subsequent increases in social security benefits. IRC section 401(a)(15).
VII.b.i.	
2050	Section of the plan should be amended to specify the accrual computation period for purposes of providing an accrued benefit. DOL Regs. sections 2530.204-2(c) and (d).
VII.b.ii.	
2051	Section of the plan should be amended so that, for purposes of benefit accrual, the plan takes into account every year required to be taken into account by the DOL regulations. DOL Regs. sections 2530.204-1(b), -2 and -3.
VII.b.iii.	
2052	Since an employee may begin participation on a date other than the first day of an accrual computation period, Section of the plan should be amended to provide for a partial year of participation as required by DOL Regs. section 2530.204-2(c)(3).
VII.b.iv.	
2053	Section of the plan should be amended to limit the deferral of accrual of benefits on behalf of a member to no more than two years, with retroactive accrual after the completion of two continuous years of service. IRC section 411(b)(1)(E), Regs. section 1.411(b)-1 (d)(1) and DOL Regs. section 2530.204-4.
VII.b.v., vi.	
2057	Section of the plan should be amended to provide for a formula under which each participant's actual accrued benefit under the plan can be determined in each plan year. IRC sections 411(a)(7)(A)(i) and 411(b)(1).
VII.c.i.	
2058	Section of the plan should be amended to provide that the normal retirement benefit is equal to the greater of the plan's early retirement benefit or the benefit at normal retirement age. Regs. section 1.411(a)-7(c).
VII.c.ii.	
2062	Section of the plan should be amended to satisfy one of the three accrued benefit methods for determining each member's accrued benefit in each plan year. IRC section 411 (b)(1) and Regs. sections 1.411(b)-1(a) and (b).
VII.d.	
2078	The top-heavy rules require that the accrued benefits of a top-heavy plan may not be less at any point in time than the minimum top-heavy benefit. Section of the plan should be amended accordingly. IRC section 416(c), Regs. Section 1.416 M-2.
VII.e.	
2081	Section of the plan should be amended to provide for a separate account for the portion of each employee's accrued benefit from voluntary employee contributions permitted under the plan. IRC sections 411 (b)(2), (c)(2) and (d)(5) and Regs. section 1.411(c)-1 (a).
VII.f.i.	
2082	Section of the plan should be amended to define the accrued benefit derived from employer contributions as total accrued benefit, less the accrued benefit derived from mandatory employee contributions. IRC section 411 (c)(1) and Regs. Sections 1.411(b)-1 and 1.411(c)-1.
VII.f.ii.	
2083	Section of the plan should be amended to define the accrued benefit derived from mandatory employee contributions in accordance with IRC section 411(c)(2)(B).
VI I.f.iii	

2084, 2085	Section _____ of the plan should be amended to provide that for purposes of determining an employee's accrued benefit derived from employee contributions, for plan years beginning after 1987 and up to the determination date, accumulated contributions will be credited with interest compounded annually at the rate of 120% of the Federal mid-term rate as in effect under section 1274 of the Code for the first month of a plan year. For the period between the determination date and the date on which the employee attains normal retirement age, the plan must credit accumulated contributions with interest compounded annually at the rate that would be used under the plan under section 417(e)(3) (as of the determination date). IRC section 411(c)(2)(C)(iii).
VII.f.iv.	
2091	Section _____ of the plan should be amended to provide, either directly or indirectly, that the nonforfeitable percentage of each member's right to his or her employer derived accrued benefit, because of a change to the vesting schedule, is not less than the member's percentage computed under the plan without regard to such change. Regs. sections 1.411(a)-8(a) and (c).
VIII.a.	
2092	Section _____ of the plan should be amended to provide that each member whose nonforfeitable percentage of his or her benefits derived from employer contributions is determined under the amended schedule, and who has completed at least 3 years of service with the employer, may elect, during the election period, to have the nonforfeitable percentage of his or her accrued benefit derived from employer contributions determined without regard to such amendment if his/her nonforfeitable percentage under the plan as amended is, at any time, less than such percentage determined without regard to such amendment. Regs. section 1.411 (a)-8T(b).
VIII.b.	
2093	Section _____ of the plan should be amended so that it does not eliminate reduce or place greater restrictions or conditions on section 411(d)(6) protected benefits that have already accrued. IRC section 411(d)(6) and Regs. section 1.411(d)-4.
VIII.c., d., e. and f.	
2094	A plan is permitted to be amended to eliminate or reduce an early retirement benefit, a retirement-type subsidy, or an optional form of benefit that creates significant burdens or complexities for the plan and plan participants, if certain conditions are satisfied. Section _____ of the plan should be amended. See 1.411(d)-3 the conditions which must be met in order to eliminate or reduce an early retirement benefit, a retirement-type subsidy, or an optional form of benefit that creates significant burdens or complexities for the plan and plan participant.
VIII.g.	
2095	Section _____ of the plan should be amended so that it retains a preretirement age 70½ distribution option for employees who reach age 70½ in a calendar year that begins prior to 1999 (or prior to any year after 1999 set forth in the amendment). IRC section 411(d)(6).
VIII.h.	
2097	Section _____ of the plan should be amended so that an employee's benefit accrual is not ceased, nor the rate of accrual decreased, because of the attainment of any age. IRC section 411(b)(1)(H) and Proposed Regs. section 1.411(b)-2(b).
IX.a.	
2098	Section _____ of the plan should be amended to conform the manner of calculating the reduction provided therein to accruals otherwise required under section 411(b)(1)(H)(i) of the Code to the requirements of section 1.411(b)-2(b)(4)(ii) and/or (iii) of the proposed regulations.
IX.b.	
2099	A plan may not permit an employer, through the exercise of discretion, to deny a participant a section 411(d)(6) protected benefit for which the participant is otherwise eligible. Section _____ of the plan should therefore be amended. See Q&As 8 and 9 of Regs. section 1.411(d)-4 regarding acceptable alternatives for amending the plan without violating section 411(d)(6).
IX.c.	

2088	Section of the plan should be amended to provide that the accrued benefit of an employee (other than a 5-percent owner) who retires in a calendar year after the calendar year in which the employee attains age 70 1/2 is actuarially increased from April 1 after the calendar year in which the employee attains age 70 1/2 to the date on which benefits commence after retirement in an amount sufficient to satisfy section 401(a)(9), in order to take into account the period during which the employee is not receiving benefits under the plan. IRC section 401(a)(9)(C)(iii) and Notice 97-75, 1997-2 C.B. 337, Q&A 4.
IX.d.	
2089	Section of the plan should be amended to provide that the actuarial increase required by section 401(a)(9)(C)(iii) of the Code applies even during the period that an employee is in suspendible service under section 203(a)(3)(B) of ERISA and section 411 (a)(3)(B) of the Code. IRC section 401(a)(9)(C)(iii) and Notice 97-75, 1997-2C.B. 337, Q&A 4
IX.e.	